

BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
May 4, 2011

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, May 4, 2011 at 7 pm at McCulloch Building, Mary McElroy Meeting Room, 182 Green Street, Weymouth, MA for the purpose of passing on the application of certain persons whose petitions were properly before the Board. Notice of public hearing had been given by mail to the parties in interest of the subject locus and by publication in the Weymouth News.

Present: Edward Foley, Vice-Chairman
Francis Kenneally, Clerk
Kemal Denizkurt
Chuck Golden
Robert Galewski
Jonathan Moriarty
Robin Moroz, Alt.

Not Present: Richard McLeod, Chairman

Staff: Rod Fuqua, Principal Planner

Recording Secretary: Mary Barker

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A motion was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and unanimously voted.

BZA CASE #3125 - Public Hearing, 1145 Washington Street (cont.)

Application of Jessica Nassif for property located at 1145 Washington Street, also shown on the Weymouth Town Atlas as Sheet 35, Block 440, Lot 7, located in B-1 zoning district, seeking a special permit and /or variance to erect a canopy over the gas pumps.

Members sitting: Edward Foley, Vice Chairman
Kemal Denizkurt
Francis Kenneally
Chuck Golden

A motion was made by Kemal Denizkurt to re-open the public hearing and waive the reading of the public notice, seconded by Francis Kenneally and unanimously voted.

Jessica Nassif appeared before the board. She provided the board with a copy of the light impact study that was requested at the last public hearing. The lighting is specialized to minimize glare and avoid spillover to the private property abutting.

Town Council President Arthur Mathews asked for an update on the outcome of the meeting between the applicant and the abutter at 70 Mutton Lane. Ms. Nassif responded that the meeting did not take place. She spoke with him at the close of the last meeting and asked him to contact her to set it up; he did not. He was also not present at this meeting. Mr. Mathews also asked the outcome on other issues he addressed in the first public hearing; the traffic calming measures and signage. It was suggested that a sign be placed on the property directing the flow of traffic to the pumps and exiting. There was a brief discussion of the businesses on the location and ownership; the owner of the property also maintains a radiator service business on the premises; the applicant leases the pumps. The property owner does not allow the queuing of vehicles blocking his bays during his hours of operation. He blocks access with his own vehicle during those times. Signage could only be used when his business is not open.

Rod Fuqua noted that George Bezkorovainy issued a memo; he reviewed the traffic information provided and has determined that no change to the current conditions is warranted at this time. Moving the traffic flow would only move the accident locations. Rod Fuqua also noted the board needs to resolve the issue of the canopy that requires a variance. The applicant is willing to cut off a corner of the canopy to meet the setback requirement.

Kemal Denizkurt noted that the traffic pattern is not ideal as it exists; however, the traffic Engineer has reviewed and has made no recommendation to improve. The use of signage is inhibited by the lease arrangement and adding a canopy will not affect the traffic flow. Chuck Golden agreed. He and Francis Kenneally are also concerned that the meeting between the applicant and abutter did not happen.

A motion was made by Francis Kenneally to close the public hearing, seconded by Kemal Denizkurt and unanimously voted. There was a brief discussion; Rod Fuqua recommended the board present conditions in draft form, particularly regarding the sign and when it will be posted, before a vote is taken. A motion was made by Kemal Denizkurt to take the matter under advisement pending recommended language of conditions; seconded by Francis Kenneally and voted unanimously.

Submission- #1 Lighting Impact Study

BZA CASE #3125 - Public Hearing, 875 Washington Street, (cont.)

Application of Hayle Corp. for property located at 875 Washington Street, also shown on the Weymouth Town Atlas as Sheet30, Block 380, Lot 11, located in HT zoning district, seeking a special permit and /or variance for automobile storage and sales.

Members sitting: Richard McLeod (absent)
 Edward Foley, Vice Chairman
 Kemal Denizkurt
 Jonathan Moriarty
 Robin Moroz

Applicant Harvey Gordon appeared before the board. Vice Chairman Foley noted that in the absence of the chairman, the applicant is requesting a continuation to the June 1, 2011 meeting.

He read the letter from Attorney Galvin. This will give the applicant time to have the survey results completed which will determine the paved portions, wetlands flagged and buffer staked out and shown on the plan.

Town Council President Mathews reviewed the history of the application. He also noted that Board of Health Director Dan McCormack has addressed the issue of ownership of the barrel noted in the wetlands.

Robert Montgomery Thomas addressed the Board. He noted that the letter from Attorney Galvin was not received by him with sufficient time to prepare and that it is in violation of the Board's rules and regulations requiring a 5-day notice of a request for a continuance. He provided several documents including site plans. He reviewed the history of the site. He concluded that the board should deny a further continuance. Vice Chairman Foley recommended he save his comments for the June 1, 2011 meeting.

Council President Mathews thanked the applicant for having the car transporter moved from Lane Ave. He also asked if there is any residential tenant occupying the upstairs area of the building. Mr. Gordon responded that he was not aware that allowing the transporter to park on the street was a violation and that it was a courtesy extended unknowingly. He also responded that since he has owned the building, there has not been anyone living in the space. He noted that since the last hearing, a surveyor has been engaged, CCR of Quincy, the cars have been moved so that all are parked on pavement.

A motion was made by Jonathan Moriarty to approve the continuance to the June 1, 2011 meeting to allow the applicant time to produce the survey, snow and drainage plans, loading and unloading address and to waive the notice and was seconded by Kemal Denizkurt. Unanimously voted.

BZA CASE #3132 - Public Hearing, 8 Pequot Road

Application of Kevin and Emily Smith for property located at 8 Pequot Rd., also shown on the Weymouth Town Atlas as Sheet 4, Block 27, Lot 16, located in R-1 zoning district, seeking a special permit and /or variance to construct a deck part of which lies within the front yard setback.

Members sitting: Edward Foley, Vice Chairman
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Robin Moroz

A motion was made by Chuck Golden to open the public hearing and waive the reading of the public notice, seconded by Kemal Denizkurt and unanimously voted.

Kevin and Emily Smith appeared before the board. They requested they be allowed to construct a deck on the front of the house. They were before the board in the past and constructed an addition to the property. The deck will make the house look less like a box and improve the look.

It will be a deck with a railing. The deck will be 5 ft. from #6 Pequot Road. The existing house does not meet the setback requirement.

Rod Fuqua reported that the application was routed to the various town departments and noted the recommendations of the Sewer Department of the DPW and that there are back taxes outstanding.

A motion was made by Kemal Denizkurt to close the public hearing, seconded by Jonathan Moriarty and unanimously voted.

To vote on the of BZA Case No. 3132 to allow a variance to construct a deck

A motion was made by Jonathan Moriarty, seconded by Kemal Denizkurt to grant the variance for the deck as per plans and application submitted.

FINDINGS

The Board found that the variance would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

1. Due to the shape and topography of the lot a hardship exists.
2. The specific site is an appropriate location for such a use with zoning.
3. There will be no detriment to the established or future character of the neighborhood or town as it is similar in nature to other houses in the neighborhood.
4. There will be no nuisance or serious hazard to vehicles or pedestrians with no change in access.
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use with no change in utilities.
6. The public welfare and convenience will be substantially served. It fits the character of the neighborhood.

DECISION OF THE BOARD - Due to the above findings, it was unanimously voted to approve the request for a variance with the following condition:

1. Taxes on the property are to be paid current.

BZA CASE #3133 - Public Hearing, 6 Shore Drive

Application of John McDonough for property located at 6 Shore Drive., also shown on the Weymouth Town Atlas as Sheet 4, Block 44, Lot 4, located in R-1 zoning district, seeking a special permit and /or variance to construct a 2-car garage with storage loft within a side setback.

Members sitting: Edward Foley, Vice Chairman
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Robin Moroz

A motion was made by Kemal Denizkurt to open the public hearing and waive the reading of the public notice, seconded by Chuck Golden and unanimously voted.

John and Gail McDonough appeared before the board. They requested they be allowed to construct a garage which will reduce the side setback from 10 ft. to 3ft.. Placement of the garage is so that the applicant's grandchildren can have sufficient room to play. They will have the existing garage razed. They have spoken with all of the abutters and none has any issue. The only utility brought in to the garage will be electricity; there will be no plumbing. It will be used for storage only; there will be no living space. Vice Chairman Foley noted he knows one of the neighbors, but that it will not affect his ability to act on the application without prejudice.

Rod Fuqua reported that the application was routed to the various town departments with no comments.

A motion was made by Chuck Golden to close the public hearing, seconded by Jonathan Moriarty and unanimously voted.

To vote on the of BZA Case No. 3133 to allow a variance to construct a garage with loft

FINDINGS

The Board found that the variance would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

A motion was made by Chuck Golden, seconded by Jonathan Moriarty to grant the variance for the deck as per plans and application submitted.

1. Due to the circumstances of soil condition, shape and topography, a hardship exists.
2. The lot fronts two streets and there is no back yard.
3. The proposed construction will be an improvement over the garage to be razed.
4. The specific site is an appropriate location for such a use.
5. There will be no detriment to the established or future character of the neighborhood or town.
6. There will be no nuisance or serious hazard to vehicles or pedestrians with minimal change in access
7. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
8. The public welfare and convenience will be substantially served. It fits the character of the neighborhood. The new garage will be set back further from the street than the existing garage.

DECISION OF THE BOARD - Due to the above findings, it was unanimously voted to approve the request for a variance with the following condition:

1. There will be no plumbing to the proposed garage and loft.

Other Business

Rod Fuqua noted the comments are being reviewed for the proposed Rules and Regulations. He is looking to a June public hearing date.

Minutes

A motion to approve the minutes of the April 20, 2011 meeting, Case #3124, #3125, #3126 and #3128 was made by Jonathan Moriarty, seconded by Chuck Golden and unanimously approved.

Adjournment

At 9:00 PM, there being no further business, a motion was made by Jonathan Moriarty to adjourn the meeting, seconded by Chuck Golden and unanimously voted.

Approved:

Edward Foley, Vice-Chairman

Date